

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Incentive Auction Task Force and Media Bureau)	MB Docket No. 16-306
Seek Comment on Post-Incentive Auction)	
Transition Scheduling Plan)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	
)	

REPLY COMMENTS OF DTV UTAH, LC

DTV Utah, LC (“DTV Utah”), which is made up of eight television stations in the Utah market,¹ hereby submits the following reply comments in response to the post-incentive auction Transition Scheduling Plan proposed jointly by the Incentive Auction Task Force (“IATF”) and Media Bureau (“MB”) of the Federal Communications Commission (referred to herein as the “Commission”) in a recent *Public Notice*.²

DTV Utah was formed in 1998 by five commercial and three noncommercial full-power television stations during the digital television (“DTV”) transition in a collective effort to more effectively implement DTV in the Utah market. As part of this effort and in coordination with the Commission, the eight DTV Utah stations entered into an operating agreement to fund the

¹ The licensees of these eight stations are: KUTV Licensee, LLC (licensee of Station KUTV); Utah State Board of Regents (licensee of NCE station KUEN); Bonneville International Corporation (licensee of Station KSL-TV); Nexstar Broadcasting, Inc. (licensee of Stations KTVX and KUCW); University of Utah (licensee of NCE Station KUED); Brigham Young University (licensee of NCE Station KBYU-TV); and Larry H. Miller Communications Corp. (licensee of Station KJZZ-TV).

² See *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, DA 16-1095 (MB rel. Sep. 30, 2016) (“*TSPPN*”).

design and construction of, and to co-locate their digital operations to, a single tower located on Farnsworth Peak. Since that time, the DTV Utah stations have continued to share facilities, thereby significantly reducing the respective operational costs and overhead of providing television broadcast services in Utah.

The Commission can take steps in this proceeding to facilitate the stations' ability to translate the efficiencies created by their operating agreement to efficiencies in the post-auction transition. Specifically, the Commission should (1) assign all DTV Utah eight stations to the same transition phase so they can coordinate repacking plans and tower work and reduce overall repacking costs, and (2) adopt a blanket waiver of the reverse auction prohibited communications rule, to become effective upon satisfaction of the final stage rule in the forward auction, to facilitate transition coordination and planning among stations, tower owners, and other vendors.

I. THE COMMISSION SHOULD ASSIGN THE DTV UTAH STATIONS TO THE SAME TRANSITION PHASE

Assigning the eight DTV Utah stations to the same transition phase will advance the Commission's goals for the post-auction repacking transition. If all of our stations are scheduled to transition on the same timeline, we will be able to maximize coordination efficiencies, reduce overall repacking costs, and minimize disruptions to viewers. Indeed, the *TSPPN*'s proposal for the Phase Scheduling Tool specifically acknowledges with respect to stations located on the same tower that assigning them to the same transition phase will be far more efficient than assigning them to different phases.³ In DTV Utah's case, assigning all eight of our stations to the same transition phase will produce even greater efficiencies, as the stations will be able to

³ See *TSPPN*, Appendix A at ¶ 50 ("The estimated time required to complete work on a tower is reduced or discounted if more than one station on the tower is transitioning in the same phase.").

share costs for many aspects of transition planning as well as construction.⁴ The Commission should therefore ensure that all eight DTV Utah stations are assigned to the same transition phase.

II. THE COMMISSION CAN PROMOTE EFFICIENCY IN THE POST-AUCTION TRANSITION BY WAIVING THE REVERSE AUCTION PROHIBITED COMMUNICATIONS RULE ONCE THE FINAL STAGE RULE IS SATISFIED

DTV Utah applauds the IATF and MB for recognizing that broadcasters will need as much time as possible to prepare for the post-auction transition,⁵ and supports the *TSPPN* proposal to inform each station that will remain on the air after the auction of its post-auction channel assignment, technical parameters, and (for those assigned to new channels) assigned transition phase, shortly after the “final stage rule” is met in the forward auction and before the auction concludes. As a practical matter, however, stations will be unable to take full advantage of this additional time unless the “quiet period” imposed by the reverse auction prohibited communications rule is lifted. This is especially true for licensees that – like DTV Utah’s members – share resources and are located on the same tower, for whom all aspects of the post-auction transition will be inextricably intertwined.

Each DTV Utah licensee must be able to communicate freely with the others in order to begin the planning process as soon as possible after receiving post-auction information from the Commission. We will be able to do this only if the communications restrictions imposed by the rule are lifted. In addition, lifting the prohibited communications rules will enable DTV Utah members to communicate with the owner of the Farnsworth Peak tower and with other vendors

⁴ DTV Utah’s request is also consistent with the comments of American Tower Corporation, which asks the Commission to clarify that all stations on the same tower will be assigned to the same phase. *See* Comments of American Tower Corporation, MB Docket No. 16-306, at 4 (filed Oct. 31, 2016).

⁵ *See TSPPN* at ¶ 7.

without fear that those other parties may become conduits of prohibited information to other licensees.

DTV Utah joins the chorus of voices urging the IATF and MB to adopt a blanket waiver of the prohibited communications rule, to become effective upon satisfaction of the final stage rule in the forward auction. This idea has received unanimous support in the record of this proceeding,⁶ and for good reason. Adoption of such a waiver would maximize the speed and efficiency of post-auction transition planning, and would do no harm to the integrity of the incentive auction process. Once the final stage rule is satisfied in the forward auction, there is no possibility of further bidding in the reverse auction. The sharing of information about the bids or bidding strategies of covered television licensees therefore could have no effect on the auction process or on the ultimate results of the incentive auction.⁷

III. CONCLUSION

If all eight DTV Utah stations are assigned to the same phase in the post-incentive auction transition plan, the efficiencies of the post-auction transition will be enhanced and repacking costs will be minimized. And if the reverse auction prohibited communications rule is waived once the final stage rule is met in the forward auction, television licensees will be able to more effectively plan for the transition at the earliest possible time, without any harm to the auction process. Both these actions will advance the Commission's objectives for the post-auction repacking. DTV Utah appreciates the enormous amount of work the Commission staff

⁶ Comments of American Tower Corporation at 3; Joint Comments of California Oregon Broadcasting, Inc., *et al.*, at 4-7; Comments of the Competitive Carriers Association at 11-12; Joint Comments of Cordillera Communications, *et al.*, at 17; Comments of the National Association of Broadcasters at 12-13.

⁷ If deemed necessary to prevent information about reverse auction bids and bidding strategies from reaching forward auction applicants while the forward auction is still ongoing, the blanket waiver could be limited to communications among covered television licensees (i.e., not include communications between covered television licensees and forward auction applicants).

has done to devise a rational process to meet the logistical and scheduling challenges posed in the post-auction repacking, and respectfully urges the IATF and MB to take actions suggested above so as to maximize the opportunity for a smooth and efficient repacking transition

Respectfully submitted,

DTV UTAH, LC

By: /s/ Michael Dowdle

Michael Dowdle

Sr. VP/Business Affairs & General Counsel

Bonneville International Corporation

Managing Member of DTV Utah, LC

Dated: November 15, 2016